

**TESTIMONY OF CHARLES MADDOX, ESQ.
INSPECTOR GENERAL
BEFORE THE D.C. COUNCIL
COMMITTEE ON GOVERNMENT OPERATIONS**

**PUBLIC OVERSIGHT HEARING ON
“THE DISTRICT OF COLUMBIA’S INSPECTOR GENERAL’S
TERM OF OFFICE AND PRINCIPAL RESIDENCE”**

THURSDAY, JANUARY 17, 2002

GOOD AFTERNOON CHAIRMAN ORANGE AND COUNCIL MEMBERS. I APPRECIATE THE OPPORTUNITY TO TESTIFY TODAY TO PROVIDE INFORMATION THAT I BELIEVE WILL ASSIST IN RESOLVING QUESTIONS THAT YOU HAVE ABOUT THE LENGTH OF MY TERM OF OFFICE AND MY RESIDENCY IN THE DISTRICT OF COLUMBIA. I RECOGNIZE THAT THE ISSUES BEFORE US TODAY ARE NOT ONLY IMPORTANT TO THIS COUNCIL, BUT ALSO TO THE CITIZENS OF THE DISTRICT, WHO MAY BE VIEWING THIS HEARING ON CABLE TV. IT IS IMPORTANT FOR ALL CONCERNED CITIZENS TO KNOW THAT I AM HELD ACCOUNTABLE FOR MY ACTIONS, JUST AS I HOLD OTHERS ACCOUNTABLE IN MY CAPACITY AS INSPECTOR GENERAL.

TERM OF OFFICE

I WILL FIRST ADDRESS THE ISSUE OF WHETHER THE SIX-YEAR TERM OF OFFICE FOR THE INSPECTOR GENERAL BEGINS WITH THE APPOINTMENT OF EACH NEW INDIVIDUAL TO THAT POSITION OR, STATED ANOTHER WAY, WHETHER MY TERM AS THE INSPECTOR GENERAL FOR THE DISTRICT OF COLUMBIA ENDED TWO DAYS AGO, ON JANUARY 15, 2002, AS

STATED IN A MAY 20, 1999, COUNCIL RESOLUTION. IT IS MY POSITION THAT MY TERM HAS NOT EXPIRED FOR TWO REASONS. FIRST, CONGRESS INTENDED THE LENGTH OF THE INSPECTOR GENERAL TERM TO RUN WITH THE INDIVIDUAL AND NOT THE OFFICE. SECOND, THE COUNCIL'S RESOLUTION IS NOT BINDING ON MY APPOINTMENT OR THE EXPIRATION OF MY TERM BECAUSE IT WAS ENTERED DURING A CONTROL PERIOD.

THE LEGISLATIVE HISTORY AS WELL AS THE CLEAR MEANING OF THE LANGUAGE OF THE IG STATUTE SUPPORTS THIS INTERPRETATION. IN 1995, CONGRESS AMENDED THE IG STATUTE BY INCREASING THE TERM OF OFFICE FOR THE IG FROM FOUR TO SIX YEARS AND BY PROHIBITING THE D.C. COUNCIL FROM CHANGING THE IG'S BUDGET. CONGRESS MADE THESE CHANGES IN PUBLIC LAW 104-8 TO SET A "FIXED" SIX-YEAR TERM FOR THE DISTRICT'S INSPECTOR GENERAL AND TO ENSURE THAT "THE IG HAS THE POLITICAL INDEPENDENCE AND THE FINANCIAL RESOURCES TO ACT AS A STRONG WATCHDOG OVER THE CITY GOVERNMENT." 141 CONG. REC. H4067 (DAILY ED. APR. 3, 1995) (STATEMENT OF REP. DAVIS). AS A RESULT, THE TERM OF THE SITTING IG NO LONGER COINCIDES WITH THAT OF THE MAYOR WHO APPOINTED HIM/HER, AND THIS INDIVIDUAL MAY ONLY BE REMOVED BY THE APPOINTING MAYOR – OR THE NEXT ADMINISTRATION - FOR CAUSE.

THIS EFFORT TO MAKE SURE THE TERMS DO NOT COINCIDE INTENTIONALLY CREATES A SITUATION WHEREBY THE IG SERVES AT LEAST TWO YEARS INTO ANOTHER MAYORAL TERM. THE EFFECT IS THAT THE IG CONTINUES TO SERVE A NEW OR RE-ELECTED MAYOR, IRRESPECTIVE OF THE MAYOR'S POSSIBLE DESIRE TO REPLACE HIM. ON A FUNDAMENTAL LEVEL, THE IG IS GUARANTEED INDEPENDENCE TO CONDUCT HIS WORK TWO YEARS INTO THE MAYOR'S TERM, WITHOUT CONCERN ABOUT RETRIBUTION AND WITH THE BENEFIT OF BEING ABLE TO IMPACT DISTRICT AFFAIRS THROUGH CONSISTENT LEADERSHIP.

FURTHERMORE, THE LEGISLATIVE HISTORY OF PUBLIC LAW 104-8 REVEALS CONGRESSIONAL INTENT TO GRANT THE AUTHORITY TO APPROVE INSPECTOR GENERAL APPOINTMENTS TO THE CONTROL BOARD ALONE DURING A CONTROL YEAR. INDEED, THE CONGRESSIONAL INTENT WAS TO PROVIDE COUNCIL WITH A ROLE OF "LIMITED REVIEW" IN THE APPOINTMENT PROCESS. H.R. REP. NO. 104-96, AT 49 (1995). IN ACCORDANCE WITH THIS PROCESS, THE CONTROL BOARD VOTED TO APPROVE MY APPOINTMENT AS THE INSPECTOR GENERAL AND SUBSEQUENTLY ISSUED A RESOLUTION ON MAY 26, 1999, GIVING MY APPOINTMENT IMMEDIATE EFFECT.

THE COUNCIL'S RESOLUTION WAS BASED ON THE PREMISE THAT I WAS APPOINTED TO FILL THE VACANCY LEFT BY E. BARRETT PRETTYMAN, JR.

IN 1999. AS YOU ARE AWARE, MR. PRETTYMAN WAS APPOINTED BY FORMER MAYOR MARION BARRY IN 1998 AS THE DISTRICT'S INSPECTOR GENERAL. MR. PRETTYMAN WAS APPOINTED TO A SIX-YEAR TERM IN ACCORDANCE WITH THE INSPECTOR GENERAL STATUTE; THEREFORE, IF HE HAD SERVED OUT HIS FULL TERM, HIS APPOINTMENT WOULD HAVE EXPIRED ON JANUARY 15, 2004.

SIMILARLY, IN 1999, I WAS APPOINTED AS THE INSPECTOR GENERAL BY MAYOR WILLIAMS. THIS APPOINTMENT WAS PURSUANT TO THAT SAME STATUTE, PRESENTLY CODIFIED AT D.C. CODE, 2001 ED. § 2-302.08 (IG STATUTE). THEN AND NOW, THE PLAIN MEANING OF THE IG STATUTE INDICATES THAT THE INSPECTOR GENERAL'S 6-YEAR TERM RUNS WITH THE INDIVIDUAL. THE LANGUAGE READS AS FOLLOWS: "THE OFFICE SHALL BE HEADED BY AN INSPECTOR GENERAL . . . WHO (EMPHASIS ADDED) SHALL SERVE A TERM OF 6 YEARS AND SHALL BE SUBJECT TO REMOVAL ONLY FOR CAUSE BY THE MAYOR (WITH THE APPROVAL OF THE DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY IN A CONTROL YEAR)." D.C. CODE, 2001 § 2-302.08 (a)(1)(A). (EMPHASIS ADDED)

THE TERM OF EACH INSPECTOR GENERAL IS SIX YEARS. UNLIKE OTHER DISTRICT STATUTES THAT SET TERMS OF OFFICE, THE IG STATUTE CONTAINS NO QUALIFYING LANGUAGE INDICATING THAT IF A VACANCY

OCCURS PRIOR TO THE EXPIRATION OF AN IG'S TERM, THEN THE INCUMBANT MAY ONLY SERVE THE REMAINING PERIOD OF THAT TERM. ACCORDINGLY, MY TERM EXPIRES IN MAY 2005, SUBJECT TO REAPPOINTMENT.

TO FURTHER CLARIFY THIS ISSUE, I WOULD LIKE TO POINT OUT THAT, BECAUSE I WAS APPOINTED DURING A CONTROL YEAR, THE ROLE OF THE COUNCIL IN MY APPOINTMENT WAS STATUTORILY LIMITED SOLELY TO TWO AREAS: 1) CONSULTATION WITH THE MAYOR ON THE NOMINATION, AND, 2) NOTIFICATION TO THE COUNCIL BY THE MAYOR OF THE NOMINATION. AS YOU WELL KNOW, I SHARE THE COUNCIL'S DESIRE FOR INCREASED HOME RULE FOR THE DISTRICT NOW AND IN THE FUTURE. HOWEVER, THE FACT REMAINS THAT MY NOMINATION DURING A CONTROL YEAR WAS SUBJECT ONLY TO THE APPROVAL OF THE CONTROL BOARD. CONSEQUENTLY, NONE OF THE COUNCIL'S ACTIONS - APPROVAL OR OPINION REGARDING MY TERM OF OFFICE - WERE BINDING. THE CONTROL BOARD, SUPPORTED BY THE PLAIN MEANING OF THE FEDERAL STATUTE, CLEARLY INTENDED ME TO SERVE A SIX-YEAR TERM.

A JANUARY 10, 2002, *WASHINGTON POST* ARTICLE QUOTES YOU, MR. CHAIRMAN, AS STATING THAT, DESPITE THE OPINION OF THE COUNCIL'S OWN GENERAL COUNSEL, "[T]HE LEGAL ANALYSIS DOESN'T DISPEL THE FACT THAT THE CONTROL BOARD APPROVED THE NOMINATION OF

MADDOX AND THE TERM AS INDICATED IN THE COUNCIL'S RESOLUTION."

(EMPHASIS ADDED). RESPECTFULLY, MR. CHAIRMAN, THIS OBSERVATION IS FLAWED FOR TWO REASONS.

FIRST, THE CONTROL BOARD'S RESOLUTION DID NOT APPROVE THE TERM AS INDICATED IN THE COUNCIL'S RESOLUTION. ON ITS FACE, THE RESOLUTION ACKNOWLEDGES THAT THE COUNCIL APPROVED MY NOMINATION. HOWEVER, IT IS IMPORTANT TO NOTE THAT THE CONTROL BOARD'S RESOLUTION DOES NOT REFER TO, ADOPT, RATIFY, OR INCORPORATE THE COUNCIL'S RESOLUTION. IN FACT, DANIEL REZNECK, WHO WAS GENERAL COUNSEL FOR THE CONTROL BOARD AT THE TIME, AND WHO DRAFTED THE CONTROL BOARD'S RESOLUTION HAS INFORMED ME THAT HE HAD NO KNOWLEDGE OF THE COUNCIL'S RESOLUTION. DESPITE LANGUAGE IN THE COUNCIL'S RESOLUTION STATING THAT THE COUNCIL WAS TO PROVIDE ALL THE NOMINEES A COPY OF THE RESOLUTION UPON ITS ADOPTION, I ALSO HAD NO KNOWLEDGE OF THE COUNCIL'S RESOLUTION UNTIL IT WAS SENT TO ME, BY YOU, MR. CHAIRMAN, ON OCTOBER 25, 2001.

SECOND, AS PREVIOUSLY STATED, THE COUNCIL'S RESOLUTION IS NOT A DETERMINING FACTOR IN THE IG'S APPOINTMENT OR THE EXPIRATION OF THE IG'S TERM BECAUSE IT WAS ISSUED IN A CONTROL YEAR.

THE COUNCIL'S ACTION TO LIMIT THE DURATION OF MY APPOINTMENT TO THE REMAINDER OF MY PREDECESSOR'S TERM DID NOT AND CANNOT OVERRIDE THE STATUTORY AUTHORITY OF THE CONTROL BOARD TO APPROVE MY APPOINTMENT IN ACCORDANCE WITH THE UNEQUIVICAL LANGUAGE OF THE IG STATUTE. FURTHERMORE, MR. CHAIRMAN, YOUR INTERPRETATION IS NOT SUPPORTED IN ANY OTHER PUBLIC DOCUMENT. THE CONTROL BOARD OMITTED ANY LANGUAGE REGARDING A "NOT TO EXCEED DATE"; THE MAYOR'S ORDER ANNOUNCING MY APPOINTMENT DID NOT SUGGEST ANYTHING OTHER THAN A SIX-YEAR TERM; AND MY PERSONNEL PAPERWORK IS NOT DISPOSITIVE, GIVEN THAT THE TERM OF OFFICE FOR THE DISTRICT'S INSPECTOR GENERAL WAS ALREADY FEDERALLY MANDATED.

RESIDENCY

I WILL NOW ADDRESS THE FACT THAT I AM A DISTRICT RESIDENT AND HAVE BEEN A DISTRICT RESIDENT SINCE MY APPOINTMENT AS INSPECTOR GENERAL. IN THE LETTER SENT TO ME BY YOU, MR. CHAIRMAN, TO GIVE NOTIFICATION ABOUT THIS HEARING, YOU EXPRESSED CONCERN ABOUT MY RESIDENCY, CITING A DECEMBER 10, 2001, *WASHINGTON POST* ARTICLE REPORTING THAT "DISTRICT PROPERTY RECORDS INDICATE THAT [I] OWN TWO CONDOMINIUMS IN THE DISTRICT OF COLUMBIA [THAT] ARE LISTED AS 'NON-OWNER OCCUPIED.'" IN ADDITION, THE ARTICLE STATES THAT PRINCE GEORGE'S COUNTY PROPERTY RECORDS LIST MY HOME IN UPPER

MARLBORO AS MY PRINCIPAL RESIDENCE. YOU ALSO CITED A DECEMBER 27, 2001, *WASHINGTON POST* ARTICLE REPORTING THAT I “POSSESS PRINCIPAL RESIDENCES IN MARYLAND AND THE DISTRICT OF COLUMBIA.”

WHILE THE ABOVE DETAILS CONCERNING THE HOMES THAT I OWN ARE NOT INCORRECT, THEY ALSO ARE NOT HELPFUL IN ASSESSING THE UNDERLYING FACTS THAT TRULY REPRESENT THE NATURE OF MY RESIDENCY AND DOMICILE – WHICH, FOR THE RECORD, ARE IN THE DISTRICT OF COLUMBIA. PERHAPS THE MOST DIRECT WAY TO PRESENT THOSE FACTS IN THE PROPER CONTEXT IS FOR ME TO SIMPLY TELL YOU THE STORY OF HOW I OBTAINED AND USED THOSE PROPERTIES OVER THE PAST YEARS.

WHILE RESIDING IN THE WASHINGTON AREA AS A UNITED STATES SECRET SERVICE AGENT IN 1980, MY WIFE AND I PURCHASED A TRACT OF FARMLAND IN PRINCE GEORGES COUNTY, MARYLAND, WHERE WE LATER BUILT A HOME THAT BECAME OUR PRIMARY RESIDENCE. IN 1996, WHILE EMPLOYED AS IG FOR THE PEACE CORPS, MY WIFE AND I PURCHASED TWO CONDOMINIUMS IN THE DISTRICT OF COLUMBIA WHICH WE INITIALLY INTENDED TO USE AS RENTAL PROPERTIES. BECAUSE WE CONSIDERED THESE PROPERTIES AS INVESTMENTS AT THE TIME OF PURCHASE, THE TAX RECORDATION DOCUMENTS TO BOTH REFLECT THAT THEY WERE NOT OWNER-OCCUPIED.

AT OR AROUND THIS TIME, WHILE SERVING AS THE INSPECTOR GENERAL OF THE PEACE CORPS IN WASHINGTON, I QUICKLY REALIZED THAT THE DEMANDS OF THIS POSITION WOULD, ON A FREQUENT BASIS, REQUIRE MY PRESENCE NEARBY. FOR THAT REASON, I NEVER USED THE LARGER OF THE TWO CONDOMINIUMS AS A RENTAL PROPERTY. INSTEAD, I RETAINED IT EXCLUSIVELY FOR MY PERSONAL USE. DESPITE THE FACT THAT THIS CONDO HAS NEVER BEEN OCCUPIED BY ANYONE OTHER THAN MEMBERS OF MY IMMEDIATE FAMILY, I SIMPLY DID NOT THINK OF UPDATING THE “NON-OWNER OCCUPIED” NOTATION ON THE TAX RECORDS FOR THAT UNIT. I PLAN TO CORRECT THIS OVERSIGHT. I SHOULD NOTE THAT MY SON LIVES WITH ME AT THIS DC RESIDENCE.

I SHOULD ALSO NOTE THAT, WHILE THAT OMISSION HAS CREATED SOME OF THE CONFUSION THAT THIS COMMITTEE IS ADDRESSING TODAY, IT HAS NOT RESULTED IN THE LOSS OF TAX REVENUE FOR THE DISTRICT. IN FACT, IT WAS NOT UNTIL YOU RAISED THIS ISSUE, MR. CHAIRMAN, THAT I REALIZED THAT MY TAX RATE ACTUALLY WOULD HAVE BEEN LOWER HAD I MADE THE CHANGE. FURTHERMORE, I WOULD LIKE TO NOTE THAT THE ISSUE AT HAND INVOLVES MY OVERSIGHT IN CONDUCTING AN IMPORTANT ADMINISTRATIVE ACTION. THE ISSUE IS NOT ABOUT WHETHER I PURCHASED PROPERTY IN DC AFTER BECOMING IG, FOR THE SIMPLE PURPOSE OF MEETING THE DISTRICT RESIDENCY LAW

REQUIREMENTS. TO THE CONTRARY, I ALREADY OWNED AND WAS USING THE DISTRICT PROPERTY (WHILE WORKING AT THE PEACE CORPS), AND SIMPLY FAILED TO CHANGE THE RECORDS TO REFLECT MY PRINCIPAL RESIDENCY IN THE DISTRICT. LET ME FURTHER EXPLAIN.

WHEN I RETIRED FROM FEDERAL SERVICE IN ORDER TO BECOME THE GENERAL COUNSEL FOR THE DISTRICT'S INSPECTOR GENERAL, E. BARRETT PRETTYMAN, I WAS NOT REQUIRED TO BE A DISTRICT RESIDENT. HOWEVER, WHEN I WAS OFFICIALLY APPOINTED INSPECTOR GENERAL IN MAY OF 1999, I IMMEDIATELY TOOK THE LEGAL STEPS NECESSARY TO CHANGE MY RESIDENCY FROM MARYLAND TO THE DISTRICT.

IN DISCUSSIONS WITH THE OFFICE OF PERSONNEL, I WAS TOLD THAT THE REQUIREMENTS FOR PROOF OF "BONA FIDE RESIDENCY" ARE CLEARLY SET FORTH IN CHAPTER 3 OF THE D.C. PERSONNEL REGULATIONS. SECTION 305 OF THIS CHAPTER REQUIRES A SHOWING OF AT LEAST FOUR CIRCUMSTANCES OR DOCUMENTS TO SUPPORT A CLAIM OF BONA FIDE DISTRICT RESIDENCY. I WILL SHOW HOW I FULFILL, NOT FOUR, BUT MANY MORE OF THESE REQUIREMENTS.

- MY HOME ADDRESS IS IN WASHINGTON, DC.

- I RECEIVE MY MAIL AT MY RESIDENCE IN THE DISTRICT AND AT THE UPPER MARLBORO ADDRESS WHERE MY WIFE STILL MAINTAINS A PRINCIPAL RESIDENT STATUS. SINCE THE VERY BEGINNING OF MY MARRIAGE, MY WIFE AND I HAVE SHARED JOINT OWNERSHIP OF ALL OF OUR ASSETS - INCLUDING THE ESTABLISHING OF A SINGLE JOINT BANKING ACCOUNT.
- I AM REGISTERED TO VOTE ONLY IN THE DISTRICT, AND HAVE VOTED IN EVERY ELECTION SINCE CHANGING MY LEGAL RESIDENCE.
- THE AUTOMOBILES THAT I USE REGULARLY ARE BOTH REGISTERED AND INSURED IN THE DISTRICT. I OWN A TRUCK USED PRIMARILY ON MY FARM IN MARYLAND. IT IS REGISTERED IN MARYLAND, AND WAS PURCHASED PRIOR TO MY APPOINTMENT AS INSPECTOR GENERAL.
- I HAVE A DISTRICT OF COLUMBIA DRIVERS LICENSE, AND NO OTHERS.
- BOTH DISTRICT OF COLUMBIA AND FEDERAL INCOME TAXES ARE DEDUCTED FROM MY WAGES AND FILED WITH THE DISTRICT'S DEPARTMENT OF FINANCE AND REVENUE AND THE U.S. INTERNAL REVENUE SERVICE.
- AS NOTED BEFORE, I PURCHASED MY CURRENT RESIDENCE IN 1996.
- I HAVE MADE MORTGAGE PAYMENTS SINCE 1996. THESE HAVE BEEN PAID SINCE 1996.

EVEN THOUGH I HAVE MORE THAN ONE RESIDENTIAL PROPERTY, IT HAS BEEN MY INTENT AS THE INSPECTOR GENERAL TO MAKE THE DISTRICT OF COLUMBIA MY “ACTUAL, REGULAR, AND PRINCIPAL PLACE OF OCCUPANCY”, AS REQUIRED BY DC LAW (DC Code, 2001 Ed. § 1-6031(15)); AND I BELIEVE I HAVE DONE SO. FURTHERMORE, I BELIEVE IT IS IMPORTANT TO NOTE THAT THE DISTRICT’S RESIDENCY REGULATIONS DO NOT REQUIRE ME TO LIQUIDATE PROPERTY HOLDINGS IN OTHER STATES. THEY DO NOT RESTRICT ME FROM VISITING THOSE PROPERTIES AT MY DISCRETION, NOR DO THEY REQUIRE THAT ANY MEMBER OF MY FAMILY SPEND ALL OF HIS OR HER TIME WITHIN THE DISTRICT OF COLUMBIA. IN FACT, THE ACTIVITIES OF MY WIFE AND ADULT SON ARE NOT DISPOSITIVE OF THE DETERMINATION OF MY RESIDENCY.

LET ME CLOSE BY SAYING THAT I BELIEVE IT IS COMPLETELY APPROPRIATE FOR THIS COUNCIL TO REQUIRE ME TO PROVIDE AN EXPLANATION IF THERE EVER ARE QUESTIONS THAT GO TO THE HEART OF WHETHER I AM SERVING THE APPROPRIATE TERM OF OFFICE OR WHETHER I AM COMPLYING WITH THE LEGAL REQUIREMENTS OF THIS CITY. THERE SHOULD BE NO QUESTION ABOUT SOMETHING AS FUNDAMENTAL AS TO THE TERM OF MY SERVICE, AND I BELIEVE THAT I SHOULD BE EXPECTED TO COMPLY WITH THE LAW, NO LESS - AND ARGUABLY, EVEN MORE - THAN OTHER DISTRICT OFFICIALS.

IT IS MY FERVENT HOPE AND EXPECTATION THAT THIS HEARING WILL
HELP US TO CLARIFY AND PRESENT THE FACTS – ACCURATELY AND IN
CONTEXT – SO THAT WE ALL CAN MOVE ON TO FOCUS OUR ATTENTION
ON OTHER IMPORTANT MATTERS AFFECTING THE DISTRICT’S BUSINESS.

THAT CONCLUDES MY TESTIMONY, AND I WILL BE HAPPY TO ANSWER
QUESTIONS OR PROVIDE ADDITIONAL INFORMATION AT THIS TIME.